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Paper No. 5

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OFFICE OF PETITIONS

In re Application of
Bertelli et al.
Application No. 10/090,827
Filed: March 6, 2002
Attorney Docket No. A0000179-C1-66-MG

DECISION GRANTING
PETITION

This is a decision on the petition filed June 10, 2002, to establish that page 30 of the specification consisting of a page listing references was part of the originally filed application.

On March 6, 2002, the application was filed.

On April 9, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of March 6, 2002, and advising applicants that page 30 of the specification appeared to have been omitted.

In response, the present petition alleges that page 30 was deposited on March 6, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "REFERENCES ON (4 PGS)" on March 6, 2002.¹ Petitioner has also submitted a copy of the missing documentation- page 30 of the specification which is page 4 of the references.

Upon review of the record, page 30 of the specification deposited on March 6, 2002, has not been located. However, the evidence is convincing that the application papers included page 30 and that page 30 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 30 submitted with the petition will be used for examination purposes.

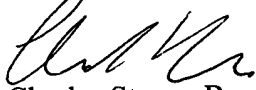
The petition fee will be credited to deposit account no. 23-0455.

The Notice mailed April 9, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 6, 2002, using the application papers filed on March 6, 2002, and the copy of page 30 of the specification filed on June 10, 2002.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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for Patent Examination Policy